



MICHAEL O. LEAVITT
Governor
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Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

ROBERT L. MORGAN
Executive Director

JERRY D. OLDS
State Engineer/Division Director

STATE OF UTAH DIVISION OF WATER RIGHTS

DIVISION OF WATER RIGHTS,
JERRY D. OLDS
STATE ENGINEER,

Claimant

v.

Second North West Canal and Irrigation Co.

Respondent.

ORDER OF THE STATE ENGINEER CEASE & DESIST

No. SEAA 1071
Water Right No. 77-1603

TO: Second North West Canal and Irrigation Co.

On July 19, 2004, the Division of Water Rights (State Engineer) sent Second North West Canal and Irrigation Company (Company), a water user on the Beaver River Distribution System, a notice to inform the Company that it was required to install a measuring device on the well associated with Water Right No. 77-1603 (Well) no later than August 19, 2004.

The notice informed the company that the Well would be inspected for compliance. If the Well was not found to be in compliance, the Company was informed that the State Engineer would issue an order to cease the use of water from the Well. The notice also informed the Company that legal action may be initiated to enforce compliance with the notice.

On or about August 24, 2004, the Well was inspected and it was determined that the Company had not complied with the July 19, 2004 notice from the State Engineer. No measuring device had been installed on the Well.

The State Engineer, having duly considered the evidence and decided the issues, it is Ordered:

The Company shall cease the use of water from the Well described in the water right listed above. Utah Code Ann. § 73-5-4.


This order shall remain in effect until the required measuring device has been installed, inspected and accepted as adequate by the State Engineer.

If the Company uses water in violation of this order, the State Engineer may commence legal proceedings against the Company in District Court.

Respondent may file a written request for reconsideration of this Judgment and Order. The request must state the specific facts and reasons for the request. The request must be filed with the Presiding Officer, Lee H. Sim, Assistant State Engineer, for Jerry D. Olds, State Engineer, Utah Division of Water Rights, P.O. Box 146300, Salt Lake City, Utah 84114-6300, within 20 days of the date that this Judgment and Order is issued. If no order granting or denying reconsideration is issued within 20 days after receipt of the request, the request shall be considered denied in accordance with Utah Code Ann. §63-46b-13(3)(b).

Respondent may file a Complaint for judicial review with the appropriate court within 30 days of the date this Judgment and Order is issued, or the date an Order on Reconsideration is issued or is considered to have been issued under Utah Code Ann. §63-46b-13(3)(b). A copy of the Complaint, if any, should be served upon the State Engineer in accordance with the provisions of Utah Code Ann. §63-46b-15.

Dated this 27th day of August, 2004.



Lee H. Sim, P.E.
Assistant State Engineer
For
Jerry D. Olds, P.E.
State Engineer

cc: Kerry Carpenter, Regional Engineer
Heather Shilton, Assistant Attorney General
Ron Roberts, Water Commissioner